

## § 1024.1

## 10 CFR Ch. X (1–1–09 Edition)

### § 1024.1 Scope and purpose.

These procedures establish a process permitting recipients of financial assistance to appeal adverse final decisions made by financial assistance officers or contracting officers. The objective is to provide a timely, just, and inexpensive resolution of disputes involving grants, cooperative agreements, loan guarantees, loan agreements, or other financial assistance instruments.

### § 1024.2 Authority.

The authority of the Board derives from direct delegation of the Secretary to hear and decide finally for the Department appeals from any decision brought before it on disputes arising under financial assistance agreements.

### § 1024.3 General.

(a) A recipient or party to a grant, cooperative agreement, loan guarantee or agreement, or other such financial assistance may have a right to appeal disputes with the Department. Such a right may be set forth in statutes, in Departmental regulations dealing with the type of financial assistance involved, or in the agreement itself.

(b) Appeals are decided by the Financial Assistance Appeals Board in accordance with the procedures set forth in these regulations. Decisions will be by majority vote and will be the final disposition of the matter within the Department.

(1) The Board is located in the Washington, DC metropolitan area and its address is: Webb Building, room 1006, 4040 North Fairfax Drive, Arlington, Virginia 22203.

(2) The Administrative Judge assigned to hear and develop the record on an appeal has authority to act for the Board with respect to such appeal within the limits assigned and as set forth in these rules.

(c) In order that a right to appeal may be exercised in a timely manner, a financial assistance recipient must appeal, in writing, within 60 days after receipt of a “final decision” on the matter by a financial assistance or contracting officer.

(d) The appeal may take one of the following three alternative courses, depending on the amount of the claim

and degree of formality desired or needed:

(1) The first method is to proceed on the basis of a written record, without any oral presentations. It is the quickest and simplest process available to an appellant. All appeals involving less than \$10,000 will be decided on this basis, unless, on application made by the appellant, or the respondent, the Board rules otherwise. This method is also available for appeals where the amount in dispute is more than \$10,000 if an election is made in accordance with Rule 2. (See § 1024.4)

(2) A second method is to use a conference-type hearing in which the written record is supplemented with an informal oral presentation. It is the second fastest process available to an appellant and is conducted in a relatively informal manner which may require little, if any, testimony, and may even be conducted by a telephone conference call where deemed appropriate.

(3) The third method, and the most time consuming is the use of an adversary evidentiary hearing. Because of the procedural and logistical aspects involved, this method is more expensive and time consuming than the other two methods for both the appellant and respondent. Generally, this method is used only if there are complex facts in dispute.

(e) All three methods are designed to be as informal as possible; nevertheless, it should be recognized that the Board must have an adequate record on which to base a sound decision. While an orderly presentation of evidence is required, the Board attempts to be as flexible as possible in the interests of arriving at an impartial, inexpensive and expeditious resolution of the matter.

(f) The services of an attorney are not necessarily required, especially as to the first method. The appellant should note, however, that the respondent is represented by an attorney. Hearings, if held, are transcribed, and witnesses are required to present information or evidence at such hearings under oath. In each case, the Board shall issue a written decision unless